

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

TIVO INC.,

Plaintiff,

vs.

**ECHOSTAR COMMUNICATIONS
CORPORATION, et al.,**

Defendants.

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CIVIL ACTION NO. 2:04-CV-01 (DF)

ORDER

_____ Before the Court is Defendants' Emergency Motion for Expedited Resolution of Echostar's Motion for Pre-Approval of Proposed New Design Around. Dkt. Nos. 1025 and 1024, respectively. Also before the Court are Plaintiff's Response, Defendants' Reply, and Plaintiff's Sur-reply. Dkt. Nos. 1029, 1030, and 1031, respectively.

Defendants seek an expedited briefing schedule on the issue of whether a new design around for their Broadcom receivers is colorably different from products previously held to infringe. Dkt. No. 1024 at 2. In the alternative, Defendants propose a stay of the injunction until 30 days after the issuance of the Federal Circuit's decision on their petition for rehearing. Dkt. No. 1030 at 6. Plaintiff opposes any expedited briefing and adds that Defendants' claims of emergency are premature because the Court's injunction is stayed pending the outcome of Defendants' petition for rehearing en banc. Dkt. No. 1029 at 2 & 4.

The Court's time and resources have recently been fully engaged by a patent infringement trial in Marshall, Texas. Additionally, the Court has another patent infringement trial scheduled

for April in Texarkana, Texas, which will similarly occupy the Court's time and resources. While the Court understands the parties' needs for resolution on this matter as well as the potential ramifications, it does not currently have the time and resources to adequately address the merits of Defendant's second designaround. Therefore, the Court hereby **STAYS** the injunction until midnight April 30, 2010.

IT IS SO ORDERED.

SIGNED this 25th day of March, 2010.

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE